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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) PERY 2 00002	
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Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. 48,843 Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature John S. Zanghi Typed or printed name 216-861-5582 Telephone number _____ Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S) : Michael Weiss, et al.
TITLE : CACHING MECHANISM TO
OPTIMIZE A BIDDING PROCESS
USED TO SELECT RESOURCES
AND SERVICES
APPLICATION NO. : 09/768,129
FILED : January 23, 2001
CONFIRMATION NO. : 3324
EXAMINER : E.G. Milef
ART UNIT : 3628
LAST OFFICE ACTION : December 14, 2005
ATTORNEY DOCKET NO. : PERY 2 00002
Cleveland, OH 44114
January 5, 2006

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Applicants respectfully request a pre-appeal brief conference insofar as the Examiner's rejections contain both clear factual errors and clear legal errors, as explained more fully below.

1. Clear Factual Errors

First, the Examiner has refuted applicants' argument that Baindur (US 6,073,176) fails to teach or suggest "Resource Adapters for providing a uniform interface to access APIs of said resources" as recited in claim 1. In support of his refutation, the Examiner notes that Baindur discloses "interfaces with various servers and clients" implemented "using a different programming methodology" that nonetheless perform "that which is described in claim 1." Yet, the Examiner has not in any way identified where in Baindur the "interfaces with various servers and clients" provide "a uniform interface to access APIs of said resources," as recited in claim 1.

Second, the Resource Adapters of applicants' claim 1 include a Caching Adapter "for maintaining cached bids for predetermined contexts." The Examiner does not contest applicants' submission that Baindur does not teach or suggest this recited feature. Indeed, the words "cache" or "cached" do not appear anywhere in the Baindur citation. However, the Examiner dismisses this shortcoming by stating simply that all computer systems use cache systems "including the "dynamic" bidding system taught by Baindur." While caching systems are well known in the computer arts, applicants respectfully submit that the use of a Caching Adapter "for maintaining cached bids for predetermined contexts" is completely unknown in the art and, as indicated above, is completely absent from Baindur.

2. Clear Legal Error

The Examiner has traversed applicants' argument that his conclusion of

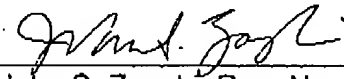
obviousness is based upon improper hindsight reasoning by noting that "so long as [the hindsight reconstruction] takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper," citing *In Re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). From the arguments presented under "Clear Factual Errors," it is clear that the use of a Caching Adapter within a multi-agent caching system "for maintaining cached bids for predetermined contexts" falls squarely into the realm of "knowledge gleaned only from the applicant's disclosure." Therefore, the Examiner's legal reasoning is manifestly wrong.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

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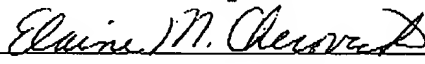
Date


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CERTIFICATE OF MAILING OR TRANSMISSION

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Date 01-05-06	Printed Name Elaine M. Checovich